SCHEDULES

SCHEDULE 10

Section 448

TAX

PART 1

GENERAL

1 Sections 75 and 77 of the Taxes Management Act 1970 (c. 9) (receivers: income tax and capital gains tax) shall not apply in relation to—

(a) a receiver appointed under section 48, 50 or 52;

(b) an administrator appointed under section 125 or 128;

(c) a receiver appointed under section 196, 198 or 200;

(d) an interim receiver appointed under section 246;

(e) an interim administrator appointed under section 256.

PART 2

PROVISIONS RELATING TO PART 5

INTRODUCTORY

2 (1) The vesting of property in the trustee for civil recovery or any other person by a recovery order or in pursuance of an order under section 276 is referred to as a Part 5 transfer.

(2) The person who holds the property immediately before the vesting is referred to as the transferor; and the person in whom the property is vested is referred to as the transferee.

(3) Any amount paid in respect of the transfer by the trustee for civil recovery, or another, to a person who holds the property immediately before the vesting is referred to (in relation to that person) as a compensating payment.

(4) If the recovery order provides or (as the case may be) the terms on which the order under section 276 is made provide for the creation of any interest in favour of a person who holds the property immediately before the vesting, he is to be treated instead as receiving (in addition to any payment referred to in sub-paragraph (3)) a compensating payment of an amount equal to the value of the interest.

(5) Where the property belongs to joint tenants immediately before the vesting and a compensating payment is made to one or more (but not both or all) of the joint tenants, this Part has effect separately in relation to each joint tenant.

(6) Expressions used in this paragraph have the same meaning as in Part 5 of this Act.

(7) "The Taxes Act 1988" means the Income and Corporation Taxes Act 1988 (c. 1), and "the Allowances Act 2001" means the Capital Allowances Act 2001 (c. 2).

(8) This paragraph applies for the purposes of this Part.

Capital Gains Tax

3 (1) If a gain attributable to a Part 5 transfer accrues to the transferor, it is not a chargeable gain.

(2) But if a compensating payment is made to the transferor—

(a) sub-paragraph (1) does not apply, and

(b) the consideration for the transfer is the amount of the compensating payment.

(3) If a gain attributable to the forfeiture under section 298 of property consisting of—

(a) notes or coins in any currency other than sterling,

(b) anything mentioned in section 289(6)(b) to (d), if expressed in any currency other than sterling, or

(c) bearer bonds or bearer shares,

accrues to the person who holds the property immediately before the forfeiture, it is not a chargeable gain.

(4) This paragraph has effect as if it were included in Chapter 1 of Part 2 of the Taxation of Chargeable Gains Act 1992 (c. 12).

Income Tax and Corporation Tax

4 If a Part 5 transfer is a transfer of securities within the meaning of sections 711 to 728 of the Taxes Act 1988 (transfers with or without accrued interest), sections 713(2) and (3) and 716 of that Act do not apply to the transfer.

5 In the case of a Part 5 transfer of property consisting of a relevant discounted security (within the meaning of Schedule 13 to the Finance Act 1996 (c. 8)), it is not to be treated as a transfer for the purposes of that Schedule.

6 In the case of a Part 5 transfer of property consisting of a right to which section 56(2) of the Taxes Act 1988 applies, or a right mentioned in section 56A(1) of that Act, (rights stated in certificates of deposit etc.) it is not to be treated as a disposal of the right for the purposes of section 56(2) of that Act.

7 In the case of a Part 5 transfer of property consisting of an asset mentioned in section 757(1)(a) or (b) of the Taxes Act 1988 (interests in non-qualifying offshore funds etc.), it is not to be treated as a disposal for the purposes of that section.

8 In the case of a Part 5 transfer of property consisting of futures or options (within the meaning of paragraph 4 of Schedule 5AA to the Taxes Act 1988), it is not to be treated as a disposal of the futures or options for the purposes of that Schedule.

9 (1) Sub-paragraph (2) applies if, apart from this paragraph, a Part 5 transfer would be a related transaction for the purposes of section 84 of the Finance Act 1996 (c. 8) (debits and credits brought into account for the purpose of taxing loan relationships under Chapter 2 of Part 4 of that Act).

(2) The Part 5 transfer is to be disregarded for the purposes of that Chapter, except for the purpose of identifying any person in whose case any debit or credit not relating to the transaction is to be brought into account.

10 Paragraphs 4 to 9 do not apply if a compensating payment is made to the transferor.

11 (1) Sub-paragraph (2) applies, in the case of a Part 5 transfer of property consisting of the trading stock of a trade, for the purpose of computing any profits of the trade for tax purposes.

(2) If, because of the transfer, the trading stock is to be treated for that purpose as if it had been sold in the course of the trade, the amount realised on the sale is to be treated for that purpose as equal to its acquisition cost.

(3) Sub-paragraph (2) has effect in spite of anything in section 100 of the Taxes Act 1988 (valuation of trading stock at discontinuance).

(4) In this paragraph, trading stock and trade have the same meaning as in that section.

CAPITAL ALLOWANCES

12 (1) If there is a Part 5 transfer of plant or machinery, Part 2 of the Allowances Act 2001 is to have effect as if a transferor who has incurred qualifying expenditure were required to bring the disposal value of the plant or machinery into account in accordance with section 61 of that Act for the chargeable period in which the transfer occurs.

(2) But the Part 5 transfer is not to be treated as a disposal event for the purposes of Part 2 of that Act other than by virtue of sub-paragraph (1).

13 (1) If a compensating payment is made to the transferor, the disposal value to be brought into account is the amount of the payment.

(2) Otherwise, the disposal value to be brought into account is the amount which would give rise neither to a balancing allowance nor to a balancing charge.

14 (1) Paragraph 13(2) does not apply if the qualifying expenditure has been allocated to the main pool or a class pool.

(2) Instead, the disposal value to be brought into account is the notional written-down value of the qualifying expenditure incurred by the transferor on the provision of the plant or machinery.

(3) The notional written-down value is—

$$QE - A$$

where—

QE is the qualifying expenditure incurred by the transferor on the provision of the plant or machinery,

A is the total of all allowances which could have been made to the transferor in respect of the expenditure if—

(a) that expenditure had been the only expenditure that had ever been taken into account in determining his available qualifying expenditure, and

(b) all allowances had been made in full.

(4) But if—

(a) the Part 5 transfer of the plant or machinery occurs in the same chargeable period as that in which the qualifying expenditure is incurred, and

(b) a first-year allowance is made in respect of an amount of the expenditure,

the disposal value to be brought into account is that which is equal to the balance left after deducting the first year allowance.

15 (1) Paragraph 13 does not apply if—

(a) a qualifying activity is carried on in partnership,

(b) the Part 5 transfer is a transfer of plant or machinery which is partnership property, and

(c) compensating payments are made to one or more, but not both or all, of the partners.

(2) Instead, the disposal value to be brought into account is the sum of—

(a) any compensating payments made to any of the partners, and

(b) in the case of each partner to whom a compensating payment has not been made, his share of the tax-neutral amount.

(3) A partner's share of the tax-neutral amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the Part 5 transfer.

16 (1) Paragraph 13 does not apply if—

(a) a qualifying activity is carried on in partnership,

(b) the Part 5 transfer is a transfer of plant or machinery which is not partnership property but is owned by two or more of the partners ("the owners"),

(c) the plant or machinery is used for the purposes of the qualifying activity, and

(d) compensating payments are made to one or more, but not both or all, of the owners.

(2) Instead, the disposal value to be brought into account is the sum of—

(a) any compensating payments made to any of the owners, and

(b) in the case of each owner to whom a compensating payment has not been made, his share of the tax-neutral amount.

(3) An owner's share of the tax-neutral amount is to be determined in proportion to the value of his interest in the plant or machinery.

17 (1) Paragraphs 12 to 16 have effect as if they were included in section 61 of the Allowances Act 2001.

(2) In paragraphs 15 and 16, the tax-neutral amount is the amount that would be brought into account as the disposal value under paragraph 13(2) or (as the case may be) 14 if the provision in question were not disapplied.

18 (1) If there is a Part 5 transfer of a relevant interest in an industrial building, Part 3 of the Allowances Act 2001 is to have effect as if the transfer were a balancing event within section 315(1) of that Act.

(2) But the Part 5 transfer is not to be treated as a balancing event for the purposes of Part 3 of that Act other than by virtue of sub-paragraph (1).

19 (1) If a compensating payment is made to the transferor, the proceeds from the balancing event are the amount of the payment.

(2) Otherwise—

(a) the proceeds from the balancing event are the amount which is equal to the residue of qualifying expenditure immediately before the transfer, and

(b) no balancing adjustment is to be made as a result of the event under section 319 of the Allowances Act 2001.

20 (1) Paragraph 19 does not apply to determine the proceeds from the balancing event if—

(a) the relevant interest in the industrial building is partnership property, and

(b) compensating payments are made to one or more, but not both or all, of the partners.

(2) Instead, the proceeds from the balancing event are the sum of—

(a) any compensating payments made to any of the partners, and

(b) in the case of each partner to whom a compensating payment has not been made, his share of the amount which is equal to the residue of qualifying expenditure immediately before the Part 5 transfer.

(3) A partner's share of that amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the Part 5 transfer.

21 Paragraphs 18 to 20 have effect as if they were included in Part 3 of the Allowances Act 2001.

22 (1) If there is a Part 5 transfer of a relevant interest in a flat, Part 4A of the Allowances Act 2001 is to have effect as if the transfer were a balancing event within section 393N of that Act.

(2) But the Part 5 transfer is not to be treated as a balancing event for the purposes of Part 4A of that Act other than by virtue of sub-paragraph (1).

23 (1) If a compensating payment is made to the transferor, the proceeds from the balancing event are the amount of the payment.

(2) Otherwise, the proceeds from the balancing event are the amount which is equal to the residue of qualifying expenditure immediately before the transfer.

24 (1) Paragraph 23 does not apply to determine the proceeds from the balancing event if—

(a) the relevant interest in the flat is partnership property, and

(b) compensating payments are made to one or more, but not both or all, of the partners.

(2) Instead, the proceeds from the balancing event are the sum of—

(a) any compensating payments made to any of the partners, and

(b) in the case of each partner to whom a compensating payment has not been made, his share of the amount which is equal to the residue of qualifying expenditure immediately before the transfer.

(3) A partner's share of that amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the transfer.

25 Paragraphs 22 to 24 have effect as if they were included in Part 4A of the Allowances Act 2001.

26 If there is a Part 5 transfer of an asset representing qualifying expenditure incurred by a person, the disposal value he is required to bring into account under section 443(1) of the Allowances Act 2001 for any chargeable period is to be determined as follows (and not in accordance with subsection (4) of that section).

27 (1) If a compensating payment is made to the transferor, the disposal value he is required to bring into account is the amount of the payment.

(2) Otherwise, the disposal value he is required to bring into account is nil.

28 (1) Paragraph 27 does not apply to determine the disposal value to be brought into account if—

(a) the asset is partnership property, and

(b) compensating payments are made to one or more, but not both or all, of the partners.

(2) Instead, the disposal value to be brought into account is equal to the sum of any compensating payments.

29 Paragraphs 26 to 28 have effect as if they were included in Part 6 of the Allowances Act 2001.

EMPLOYEE ETC. SHARE SCHEMES

30 Section 135(6) of the Taxes Act 1988 (gains by directors and employees) does not make any person chargeable to tax in respect of any gain realised by the trustee for civil recovery.

31 Section 140A(4) of the Taxes Act 1988 (disposal etc. of shares) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares or an interest in shares.

32 Section 162(5) of the Taxes Act 1988 (employee shareholdings) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares.

33 Section 79 of the Finance Act 1988 (c. 39) (charge on increase in value of shares) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares or an interest in shares.